

**LOCAL RULES GOVERNING DUTIES OF AND
PROCEEDINGS BEFORE MAGISTRATE JUDGES**

United States District Court

Middle District of Tennessee

Effective April 1, 2005

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Rule 1. Purpose. These Rules establish the duties and responsibilities of the Magistrate Judges for this District; the procedure for cases before the Magistrate Judges; and the methods of appeal from any order or report entered by a Magistrate Judge.

(a) **Assignment of Duties and Delegation of Responsibilities.** The Chief Judge of the District will coordinate and supervise the assignment of duties and delegation of responsibilities to the Magistrate Judges.

(b) **Performing Duties for the District Judges.** In performing duties for the District Judges, the Magistrate Judges shall conform to all applicable provisions of the federal statutes and rules, to the local procedural rules of the District Court, and to the requirements specified in the order of reference from a District Judge.

(c) **Proper Citation to These Rules.** These Rules may be cited as Local Rules for Magistrate Judge Proceedings, e.g., L.R.M.J. 1(d).

Rule 2. Scope of Duties – Criminal Matters 28 U.S.C. § 636(a). Magistrate Judges are authorized and designated to exercise all of the powers and duties prescribed by 28 U.S.C. § 636(a) in criminal matters. Trials of criminal cases before the Magistrate Judges shall be in accordance with Fed.R.Crim.P. 58.

Rule 3. Scope of Duties – General 28 U.S.C. § 636(b)(3) and (4). Magistrate Judges are authorized and designated to exercise all jurisdiction expressly permitted by law and not inconsistent with Article III of the United States Constitution. Magistrate Judges also may determine any preliminary matters and conduct any necessary evidentiary hearings or other proceedings arising in the exercise of their jurisdiction. This Rule shall be construed broadly to fully implement the authority of Magistrate Judges in the District under the order of reference.

Rule 4. Determination of Non-Dispositive Pre-Trial Matters. Pursuant to 28 U.S.C. § 636(b)(1)(A) and Fed. R.Civ.P. 72(a), Magistrate Judges are authorized and where designated under Local Rule 11 or otherwise shall hear and determine all non-dispositive pre-trial matters pending before the Court to the extent permitted by law, except as limited by the Local Rules or the orders of a District Judge.

Rule 5. Recommendations Regarding Case-Dispositive Motions and Other Dispositive Matters. Pursuant to 28 U.S.C. § 636(b)(1)(B), and Fed.R.Civ.P. 72(b) upon designation from a District Judge, a Magistrate Judge is authorized to conduct hearings, including evidentiary hearings and other necessary proceedings, and to submit to the District Judge a report containing proposed findings of fact, conclusions of law, and recommendations for disposition of the following matters: (1) motions excepted from the jurisdiction granted to Magistrate Judges under 28 U.S.C. § 636(b)(1)(A), including case-dispositive motions; (2) applications for post-trial relief made by individuals convicted of criminal offenses; and (3) prisoner petitions challenging conditions of confinement.

To the extent permissible under Article III of the United States Constitution, a District Judge also may refer any other pre-trial or post-trial motions or other matters to a Magistrate Judge for a report and recommendation.

Rule 6. Conduct of Trials and Disposition of Civil Cases by Magistrate Judges upon Consent of the Parties - 28 U.S.C. § 636(c).

(a) **Consent.** Upon the consent of the parties and the entry of an order of transfer by a District Judge, Magistrate Judges are hereby specifically designated, pursuant to 28 U.S.C. §636(c), to conduct trials and otherwise dispose of any civil case that is filed in this Court. After an order of transfer is entered in a case, a Magistrate Judge may conduct any or all proceedings in the case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment in accordance with 28 U.S.C. § 636(c), and Fed.R.Civ.P. 73. In the course of conducting such proceedings, a Magistrate Judge may hear and determine any pre-trial and post-trial motions, including case-dispositive motions.

(b) **Written Notice to the Parties.** The Clerk shall give a written notice to the parties of their opportunity to consent to the exercise by a Magistrate Judge of civil jurisdiction as authorized by this Rule. The Clerk shall furnish the notice and a consent form to plaintiff's counsel at the time the complaint is filed and upon the appearance of each defendant. At the initiative of plaintiff's counsel, all parties shall consider the possibility of consenting to a Magistrate Judge's jurisdiction.

(c) **Non-Consent of the Parties.** If all parties do not consent to a transfer of jurisdiction to a Magistrate Judge, no consent form will be filed with the Clerk and no party will reveal to the Clerk or any judge the position of any party on the issue of consent.

(d) **Order of Reference.** If all parties or the remaining parties following disposition of the case with respect to all non-appearing defendants, consent to further proceedings before a Magistrate Judge, an order of reference shall be prepared for the District Judge to whom the case has been assigned. No civil action shall be referred to a Magistrate Judge pursuant to this Rule until the District Judge has signed an order of reference.

(e) **Vacating an Order of Reference.** Once an order of reference has been entered as provided in subsection (d) of this rule, no party may withdraw his consent. An order of reference may be vacated by a District Judge upon the Judge's own motion, for good cause shown, or upon motion of a party who can demonstrate extraordinary circumstances.

(f) **Additional Party After Reference.**

1. In the event an additional party is brought in or joined in a civil action referred to a Magistrate Judge as provided in this Rule, the party bringing in or joining an additional party shall additionally cause a copy of the consent form to be served on each additional party. Counsel

for all parties shall then confer and shall file a new consent form, if all parties agree. The new form must be filed within thirty (30) days after the appearance of such additional party.

2. If the parties fail to file a form consenting to further proceedings before the Magistrate Judge within 30 days, the Magistrate Judge shall return the case file to the referring District Judge for the entry of an order vacating the order of reference. If all parties consent to further proceedings before the Magistrate Judge, then the order of reference previously entered remains valid and binding without the necessity of entry of another order by the District Judge.

Rule 7. Prisoner Cases Under 28 U.S.C. §§ 2254 and 2255. Magistrate Judges may perform the duties imposed upon judicial officers by the rules governing proceedings in the United States District Courts under 28 U.S.C. §§ 2254 and 2255. In so doing, a Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearings or other appropriate proceedings. Unless a Magistrate Judge is exercising authority pursuant to 28 U.S.C. § 636(c), the Magistrate Judge shall not issue an order disposing of an application filed under 28 U.S.C. §§ 2254 or 2255, but shall submit to the District Judge a report containing proposed findings of fact, conclusions of law, and recommendations for disposition of the application.

Rule 8. Contempt Authority - 28 U.S.C. § 636(e). Magistrate Judges may exercise contempt authority pursuant to 28 U.S.C. § 636(e)(1)-(5) and shall certify any other contempts to the District Judge under 28 U.S.C. § 636(e)(6).

Rule 9. Review of Magistrate Judge Actions.

(a) Objections to Orders of Magistrate Judges on Non-Dispositive Matters.

1. **Motions for Review.** Objections to decisions of Magistrate Judges on non-dispositive matters in civil cases shall be in accordance with Fed.R.Civ.P. 72(a) by way of a “motion for review.” The motion for review shall be served and filed in accordance with Rules 5 and 7 of Fed.R.Civ.P. Such motions shall be filed within 10 days after service of the order to which objection is raised, unless a different period of time is specified. The motion for review shall state with particularity that portion of the order for which review is sought and shall be accompanied by sufficient documentation including, but not limited to, briefs, affidavits, pertinent exhibits, and if necessary, transcripts of the record to apprise the District Judge of the basis for the appeal. The order of the Magistrate Judge may be modified or set aside if it is clearly erroneous or contrary to the law or in the interests of justice.

2. **Response.** Any other party wishing to respond shall file a response within ten (10) days after being served with a copy of such objections.

3. **Stay of Order.** There shall be no stay of an order entered by a Magistrate Judge absent a stay granted by the Magistrate Judge or the District Judge.

(b) Objections to a Report and Recommendation of a Magistrate Judge on a Dispositive Motion.

1. **Objections.** Objections to a report and recommendation of a Magistrate Judge on a dispositive motion shall be made within ten (10) days after service of the report and recommendation, in accordance with Fed.R.Civ.P. 72(b). Such objections shall be written and in the form of a motion for *de novo* determination by the District Judge and shall state with particularity the specific portions of the Magistrate Judge's report or proposed findings or recommendations to which an objection is made and shall be accompanied by sufficient documentation including, but not limited to, briefs, affidavits, pertinent exhibits, and if necessary, transcripts of the record to apprise the District Judge of the basis for the objection. A memorandum of law shall accompany such objections.

2. **Response.** Any other party wishing to respond shall file a response within ten (10) days after being served with a copy of such objections.

3. **Additional Proceedings.** The District Judge shall make a *de novo* determination of the matter and may conduct a new hearing, take additional evidence, recall witnesses, recommit the matter to the Magistrate Judge for further proceedings and consideration, conduct conferences with counsel for the affected parties, and receive additional arguments, either oral or written, as the District Judge may desire.

(c) Appeals in Criminal Matters.

1. **Misdemeanor and Petty Offense.** Appeals in criminal matters shall be made to the District Judge within ten (10) days of entry of judgment, and shall be in accordance with Fed.R.Crim.P. 5(g)(2) for misdemeanors and petty offenses handled by the Magistrate Judge.

2. **Release and Detention Orders.** Review and appeals of release or detention orders shall be in accordance with 18 U.S.C. § 3145.

(d) Transcription of the Record. If transcripts are necessary for a review, objections, or appeals under Rules 9(a), (b), or (c), the moving party shall within ten (10) days from the service upon opposing counsel of the objections, request for review or appeal, arrange for the transcription of so much of the record as the parties shall designate. The District Judge may direct any other portions of the record deemed necessary by the District Judge to be transcribed.

(e) Appeals from Consent Cases under 28 U.S.C. § 636(c). Appeals in consent cases shall be to the Court of Appeals as provided in Fed.R.Civ.P. 73(c) as if from the judgment of a District Judge.

(f) Waiver. Failure of a party to file a timely motion for review of non-dispositive matters or to timely object to a report and recommendation of a Magistrate Judge in dispositive

matters, or to file an appeal in criminal matters, may constitute a waiver of any right to raise the matter in further proceedings.

(g) **Subsequent Orders of the District Judge.** The District Judge may issue orders which supersede or countermand prior orders of the Magistrate Judge where necessary in the interest of justice.